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SUBJECT: THE EMERGING STORY ON "SUDANIZATION" OF HUMANITARIAN AID

1.(SBU) Summary: Since the March 16, 2009, announcement by President Omar al-Bashir that all humanitarian aid in Sudan would be "Sudanized" within one year, international aid agencies, the UN, and donors have sought clarity on the extent and nature of this process.

As the Sudanese government continues to work to take President Bashir's political statement and turn it into policy and procedures, recent NGO reports indicate varied enforcement by Sudanese government official based on the government's relationship with and trust of the international NGO. However, some NGOs have expressed concerns that Government of Sudan (GOS) pressure upon international NGOs to partner with certain national organizations has quietly intensified, clarifying the possible future direction of GOS Sudanization efforts. The January 31, 2010, expiration of the Moratorium on Restrictions for Darfur, which necessitates the renewal of all first-tracked bureaucratic procedures for international NGO work in Darfur, will be the first true test of GOS intentions. End summary.

Background

12. (SBU) Following the International Criminal Court (ICC) indictment of Sudanese President Omar al-Bashir, the GOS reacted immediately on March 4 and 5, 2009, by expelling 13 international NGOs and dissolving three national NGOs, threatening expulsion for any other organizations that the GOS believed did not respect Sudanese law. In a subsequent public announcement on March 16, Bashir mandated that national organizations would take over all humanitarian assistance in Sudan within a year, stating that if any country or organization provides assistance, the GOS would only accept it if "handed over at ports or airports." While many government officials have assured agencies privately that Bashir's threats to enforce a complete Sudanization of humanitarian aid, with no remaining presence of international NGOs, will likely not be enforced, these officials also acknowledge Bashir's announcement as a presidential directive that must be enacted. The devil is in the details, however, and, with the procedures accompanying the Sudanization policy not yet public, many of the details remain left to interpretation by individual GOS officials.

13. (SBU) Since the announcement, international NGOs, the UN, and donors have sought clarity on the extent and nature of the Sudanization process. The NGO Steering Committee, in particular, has repeatedly stated that aid agencies support the principle of Sudanization in terms of capacity-building but has also emphasized that Sudanization must not be considered narrowly to only include partnership with national NGOs registered with the Government of National Unity Humanitarian Aid Commission (HAC). Most international NGOs already partner with line ministries and community-based organizations (CBOs), while nearly 90 percent of international NGO staff members are Sudanese. International NGOs are advocating for a broader understanding of Sudanization to include support for these current partnerships. The NGO Steering

Committee also has noted that a clear mechanism must be developed for determining which of the approximately 3,300 national NGOs registered with the HAC are truly working according to humanitarian principles and with the necessary standards mandated by donors.

¶4. (SBU) In late and early May, field sources reported that the HAC in West Darfur had denied approval of several technical agreements (TAs) on the grounds that the NGOs did not have an acceptable national NGO partner. According to the reports, the HAC unilaterally wrote the names of national NGOs into TAs and pressured the organizations to accept the partners. Other NGOs received signed TAs in May and June without including a national partner, while still other international relief agencies were given a six-month reprieve with the expectation that the organizations would identify a national NGO at the end of that period. As the expiration of the Moratorium on Restrictions for Darfur approaches, more international NGOs are facing pressure from the HAC to include national NGO partners in TAs. In addition, the NGO Steering Committee reports that the national NGO requirement will begin taking effect for programs in the rest of Sudan, excluding Darfur, during 2010.

Varied But Troubling Messages Emerging

¶5. (SBU) On November 24 and 26, USAIDoffs met with international NGO representatives to discuss the potential impact of Sudanization on USAID-funded programs and assess the current political landscape vis-a-vis the Sudanization requirement. One NGO representative indicated that the GOS committee working to shape Bashir's political statement into finalized policy of Sudanization seemed to be nearing

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completion. However, the NGO representative reported that the GOS is keeping the near-complete policy close hold-in his view, to minimize the negotiating time between the publishing of the policy and implementation. According to another NGO representative, when NGOs questioned the HAC about when the Sudanization policy would be made clear, the HAC replied that it would release the finalized policy by the end of December. NGOs have expressed concern regarding this timeline, as many are already working to renew TAs in advance of the January 31 deadline. Whether the policy is published or not, enforcement of Sudanization during approval for 2010 TAs is a litmus test for how rigid the GOS will be on this issue. Varied messages are emerging indicating the direction Sudanization will take in the coming months.

Threats, But No List

¶6. (SBU) One USAID/OFDA partner organization reported that current activities and plans to fill post-expulsion gaps left by an expelled NGO are currently on hold due to HAC insistence upon inclusion of a HAC-approved national NGO partner in the organization's TAs. The HAC reportedly gave the organization a deadline of December 20 by which to choose a national NGO or the TAs would not be signed and activities would not occur. A HAC official threatened the organization, stating that if the organization does not sign with a suitable national NGO, the official will stir up community frustration against the international NGO, ensuring that the community understands that the project ceased as a result of the international NGO's refusal to work. However, even in seeking to comply with the GOS requirement, the organization remains uncertain regarding which national NGOs would be acceptable to the GOS, as international NGOs have been asking for a list of suitable national NGOs for months with no clear response. Some NGOs have received lists of permissible NGOs for partnership based on certain project types, but others are left to sift through approximately 3,300 national NGOs currently registered with the HAC. In the absence of clear guidance, many international NGOs are still hoping that the GOS will deem current partner organizations, including CBOs and line ministries, suitable and satisfactory to fulfill the Sudanization requirement.

¶7. (SBU) When asked about whether certain national NGOs are being favored over others, a NGO representative reported that no clear pattern has yet emerged on the national NGOs provided. Thus far, the only clear consistency demonstrated is that the HAC will only consider organizations registered with the federal HAC as legitimate partners. Some international NGOs are helping CBOs register with HAC. However, registration is a laborious process requiring the naming of a 30-person board of directors, which presents a substantial obstacle to CBO registration. In addition, some CBOs may want to remain unregistered, as it remains unclear what the benefits and liabilities of registration might be for these organizations.

Choice?

¶8. (SBU) In other cases, NGOs conducting interviews of potential national partner organizations have been interrupted by HAC officials, who insisted that a HAC official must be present during all interviews of potential national NGO partners. Reportedly, the HAC officials then stated that the GOS would be choosing the national NGO for the international NGOs; thus, interviews of potential partners are unnecessary. NGOs have reported instances of the HAC specifically assigning national NGO partners to international NGOs. In one case, an international NGO went, in a good faith effort, to meet with the assigned national NGO to conduct an initial assessment of match and technical capability. However, the national NGO expressed unwillingness to partner with the international NGO, as the organization did not see that the two groups shared a common objective.

Variations in Approach

¶9. (SBU) One NGO representative reminded USAIDoffs that, "in Sudan, relationships are more important than rules," adjuring the USAIDoffs not to look for consistency in the GOS approach to various NGOs. In the representative's view, application of the Sudanization policy will depend on the GOS relationship with and perception of international NGOs, as well as the interest of different national

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NGOs to have partnerships. Particularly without a written policy, GOS implementers are interpreting according to these relationships-strictly if the GOS considers the international NGO as a threat or is suspicious of the organization's activities and more leniently in cases which the GOS has trust and confidence in the international NGO. The NGO representative relayed reports of two NGOs that have received signed 2010 TAs without national NGO partners. However, according to the NGO staff member, these instances represent exceptions rather than the rule. In addition, the military government does not adhere to this relationship-based economy of rules, and, in the NGO representative's view, it remains unclear which portion of the government will win out on the issue of Sudanization.

¶10. (SBU) While each case varies as to the scope of GOS involvement in choosing the national NGO partner, the common theme is GOS control of partnerships, something that NGOs, even some national NGOs, fear. In some cases, national NGOs also do not want to lose credibility and appear as if the organization is HAC-directed. According to one international NGO representative, in most cases, national NGOs and the HAC see partnerships as a "checkbook" for national NGOs, which have expectations of money and assets out of the deal without understanding the many criteria that must be met. Another NGO representative reminded USAIDoffs that the Sudanese government's annual evaluations of international NGOs do not assess the effectiveness of programming but rather document and inventory project assets, budget, and staff. The GOS notes assets for possible confiscation at any time, whether from international or national NGOs. Some national NGOs reportedly fear that participation in the GOS Sudanization campaign will intensify GOS

scrutiny of national NGO assets and activities.

Outstanding Issues

¶11. (SBU) As the international community awaits clarity on the GOS Sudanization policy, organizations have identified the following non-exhaustive list of urgent issues for consideration prior to implementation:

a) Capacity and Quality: International NGOs and donors question how many capable national NGOs are present in Sudan? With international NGOs descending upon the most capable and trustworthy national NGOs, the demands upon these organizations could exceed their capacity. The most capable national NGOs could become spread too thin or become bloated with bureaucracy if forced to grow too quickly. In addition, international NGOs are unwilling to accept the forced provision of an unqualified national NGO partner, which would risk the international NGO's reputation and the quality and integrity of the organization's work. NGOs have expressed significant concern regarding the potential of forced partnership, as any partner must adhere to humanitarian principles, demonstrate fiscal responsibility, commit to protection of beneficiaries, and demonstrate sufficient technical capacity for the activity. Without free choice of partners, the international NGO would be unable to determine these issues.

b) Donor Requirements: Under U.S. Government (USG) guidelines, any movement of U.S.-provided grant funds from the primary implementer to a partner organization as a separate legal entity requires a sub-award. This requirement will necessitate modification of all U.S.-funded awards to include the sub-awardee prior to the signing of TAs, potentially delaying the provision of humanitarian assistance. In addition, receipt of USAID funds requires that the sub-awardee meet the basic requirements of demonstrating fiscal transparency, neutrality, lack of terrorism ties, accountability, and protection of beneficiaries. For funding from the European Commission's Humanitarian Aid Office (ECHO), the sub-awardee must be registered with the European Commission, a requirement that could significantly delay any action on ECHO-funded grants with new sub-awards.

c) Acceptance by Beneficiary Community/Neutrality: Beneficiaries in Darfur have long expressed reluctance to accept national NGOs chosen by the GOS into project sites, particularly in the most politicized IDP camps. IDPs have not generally accepted national NGOs in camps since the NGO expulsions. Full support for only GOS-registered NGOs would compromise neutrality in an already politicized aid operation.

d) Elections: International NGOs question how the GOS will view any national NGO perceived to be supporting opposition groups, particularly given the ongoing electoral registration and the upcoming election. Even if these organizations are preliminarily accepted by the GOS as partners for international NGO TAs, the

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scrutiny upon the organizations during this 18-month period containing election and referendum could make it very difficult to conduct work.

Key Messages on Sudanization

¶12. (SBU) The following key messages on Sudanization are for delivery during meetings with GOS representatives on humanitarian issues, including the upcoming November 30 Geneva Humanitarian Meeting:

a) Sudanization must be more broadly defined to include work with non-HAC registered Sudanese organizations and line ministries. The philosophy of partnership is already at the foundation of many NGOs' work in Sudan. Any newly defined process should not subvert the current partnerships that are working well.

b) Sudanization must not be forced. The Sudanese government should ensure that Sudanization procedures enable international NGOs and national NGOs to enter into partnerships voluntarily, without force or coercion. Any new arrangement should ensure that critical services are not disrupted and are accepted by the beneficiary community so that aid can reach vulnerable populations.

c) Sudanization procedures must bear in mind donor requirements for accountability, impartiality, and independence in humanitarian assistance. Sudanization must allow international NGOs to choose partner organizations demonstrating fiscal transparency, neutrality, lack of terrorism ties, accountability, and protection of beneficiaries, in accordance with donor guidelines.

d) Capacity-building is a natural by-product, but not the primary objective of humanitarian assistance. Donors support greater Sudanese NGO involvement in the humanitarian response but caution that this approach should not become the main objective of a humanitarian response, the objective of which is to save lives and reduce suffering.

Comment

¶13. (SBU) While USAID supports capacity-building in principle, USAID has concerns regarding any use of force or coercion during Sudanization of humanitarian aid. This includes GOS threats to unilaterally choose national partners, avoid signing TAs in the absence of a GOS-accepted or mandated partner, create dissension among beneficiary populations by blaming international NGOs for gaps in project activity, and, at worst, expel "intransigent" international NGOs for not following Sudanese law on national partnership. NGOs remaining following the expulsions are in a precarious position: as on international NGO representative state, the organizations are left with little to no leverage to negotiate a compromise on Sudanization or any other substantive issue. USAID will continue to advocate for a rational approach to Sudanization and unequivocally support international NGO partners in continuing to save lives and reduce suffering in Sudan in coordination with freely chosen and appropriate Sudanese partners.

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